

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1526 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

MAHAVIRSING JASVANTSING & ANR.

Versus

STATE OF GUJARAT & ANR.

Appearance:

Shri B.J. Jadeja, Advocate, for the Petitioners
Shri T.H. Sompura, Asst. Govt. Pleader, for the
Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 04/04/96

ORAL JUDGEMENT

The order passed by the Assistant Collector at Dhrangadhra (respondent No. 2 herein) on 14th March 1983 as affirmed in revision by the order passed by and on behalf of the State Government (respondent No.1 herein) on 26th August 1985 is under challenge in this petition under articles 226 and 227 of the Constitution of India.

By his impugned order, respondent No. 2 cancelled one entry bearing No. 800 of 11th March 1976 mutating certain parcels of land in favour of petitioner No. 2 at the instance of petitioner No. 1.

2. The facts giving rise to this petition move in a narrow compass. It appears that petitioner No. 1 was owner of certain parcels of land. He orally transferred certain parcels of land in favour of his sister (petitioner No. 2 herein). On the strength of such transfer, mutation entry No. 800 was effected in the Record of Rights and it was certified on 22nd April 1976. That entry appears to have come to the notice of respondent No. 2. He found it not according to law. Its suo motu revision under Rule 108(6) of the Gujarat Land Revenue Rules (the Rules for convenience) framed under the Bombay Land Revenue Code, 1879 (the Code for brief) was contemplated. Thereupon a show-cause notice came to be issued on 28th February 1983 calling upon the petitioners to show cause why the aforesaid mutation entry should not be cancelled. After hearing the parties, by his order passed on 14th March 1983, respondent No.2 cancelled the aforesaid mutation entry. Its copy is at Annexure A to this petition. The aggrieved petitioners carried the matter in revision before respondent No. 1 under S. 211 of the Code. By the order passed by and on behalf of respondent No. 1 on 26th August 1985, the revisional application came to be rejected. Its copy is at Annexure B to this petition. The aggrieved petitioners have thereupon approached this Court by means of this petition under articles 226 and 227 of the Constitution of India for questioning the correctness of the order at Annexure A to this petition as affirmed in revision by the order at Annexure B to this petition.

3. Learned Advocate Shri Jadeja for the petitioners is right in his submission that the revisional powers under Rule 108 of the Rules could not have been exercised after an inordinate delay of nearly 7 years from the date of the entry certified on 22nd April 1976. The point raised by learned Advocate Shri Jadeja for the petitioners has been covered by the binding ruling of the Supreme Court in the case of State of Gujarat v. Patel Raghav Natha and others reported in (1969) 10 G.L.R. 992. It has been held therein that the revisional powers for the purpose of correction of a mutation entry cannot be exercised beyond unreasonable period of time. In that case, the reasonable period of time was considered to be 3 months only.

4. The aforesaid binding ruling of the Supreme Court is on all fours applicable in the present case. As pointed out hereinabove, the mutation entry was certified on 22nd April 1976. The show-cause notice for its suo motu revision was issued nearly 7 years thereafter on 28th February 1983. It thus becomes clear that the revisional powers for correction of the mutation entry was sought to be exercised nearly 7 years after effecting the mutation entry. This cannot simply be permitted to be done.

5. Learned Assistant Government Pleader Shri Sompura for the respondents has urged that the transfer of immovable properties could not have been effected except by the registered document in view of the relevant provisions contained in the Transfer of Property Act, 1882. I think the revenue authorities should not be concerned about the title to the properties in the hands of the parties. It is a settled principle of law that revenue records are maintained for fiscal purposes and they do not confer title on the parties if there is none. If there is any dispute regarding the title to a property, the parties will get that dispute resolved by approaching the competent civil court.

6. In view of my aforesaid discussion, I am of the opinion that the impugned orders at Annexures A and B to this petition cannot be sustained in law. They have to be quashed and set aside.

7. In the result, this petition is accepted. The order passed by the Assistant Collector at Dhrangadhra (respondent No. 2 herein) on 14th March 1983 at Annexure A to this petition as affirmed in revision by the order passed by and on behalf of the State Government on 26th August 1985 at Annexure B to this petition is quashed and set aside. Rule is accordingly made absolute with no order as to costs.
